

# Exhibit O

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO EASTERN DIVISION

\*\*\*\*\*

TELEBRANDS CORPORATION,

Plaintiffs

vs.

CASE NO.

1:23-cv-00631-BMB

WINSTON PRODUCTS, LLC

Defendants

\*\*\*\*\*

VIDEOTAPED EXPERT DEPOSITION OF:

JAMES L. GLANCEY, Ph.D., P.E.

Taken On:

April 3, 2024

8:29 a.m.

Taken at:

Tucker Ellis, LLP

950 Main Ave Ste 1100

Cleveland, Ohio

Stenographic Court Reporter:

Kelliann D. Linberg, RPR, Notary Public

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21 ALSO PRESENT:

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P R O C E E D I N G S

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THE VIDEOGRAPHER: Good morning. We are going on the record at 8:29 a.m. on April 3, 2024. This is Media Unit Number 1 of the video recorded deposition of James Glancey taken by counsel for the Defendant in the matter of Telebrands Corporation versus Winston Products, LLC. Filed in the United States District Court, Northern District of Ohio, Eastern Division, Case Number 1:23-CV-00631.

We are at 950 Main Avenue in Cleveland, Ohio. My name is Randy Andrews representing Veritext. I am the videographer. The court reporter is Kelliann Linberg, also with Veritext. Counsel present please identify themselves for the record, beginning with the noticing attorney.

MR. CLIFFORD: My name is Nicholas Clifford. I'm with Tucker Ellis on behalf of Defendant, Winston Products.

MR. LONG: Joshua Long with Kelley Drye on behalf of Telebrands, the Plaintiff.

THE VIDEOGRAPHER: If you could, clip your microphone on for me, that be great. I heard you, but --

MR. LONG: Do you want me to repeat?

1 THE VIDEOGRAPHER: Yeah, if you would.

2 MR. LONG: Joshua Long with Kelley Drye on  
3 behalf of the Plaintiff, Telebrands.

4 - - - - -

5 JAMES L. GLANCEY, Ph.D., P.E., of lawful  
6 age, called for examination, as provided by the Ohio  
7 Rules of Civil Procedure, being by me first duly sworn,  
8 as hereinafter certified, deposed and said as follows:

9 DIRECT EXAMINATION OF JAMES L. GLANCEY, PH.D., P.E.  
10 BY MR. CLIFFORD:

11 Q. Dr. Glancey, would you state your full  
12 name, please?

13 A. James Lawrence Glancey.

14 Q. I am going to just go through a couple  
15 preliminaries. I am sure you've been through this  
16 before. But you understand that you are here today to  
17 give complete and accurate responses to my questions;  
18 is that correct?

19 A. Yes.

20 Q. Okay. And is there anything impairing your  
21 ability to testify today? Medical conditions or  
22 otherwise?

23 A. No.

24 Q. And you intend to give truthful testimony  
25 today, correct?

1           Q.     You are not giving us a definition of what  
2     the plain of ordinary meaning is --

3           MR. LONG:   Objection.

4           Q.     -- are you?

5           MR. LONG:   Objection.   Form.

6           A.     I am not -- I'm not an attorney, but my  
7     understanding is when we invoke the plain and ordinary  
8     meaning, no definition is required --

9           Q.     Okay --

10          A.     -- if you use the plain and ordinary  
11     meaning.

12          Q.     I'm not asking what your understanding of  
13     the law is.   I am asking -- I am just asking you to  
14     agree that you are, in fact, not providing a definition  
15     of what the plain and ordinary meaning is, right?

16          MR. LONG:   Objection.   Form.   Asked and  
17     answered.

18          A.     I'll take it a step further.   I believe --  
19     not only do I believe that we do not have to provide a  
20     definition when a plain and ordinary meaning  
21     instruction comes from the Court, I did not do that  
22     here because I did not feel -- my understanding is, it  
23     was not -- it is not necessary, and that's why I didn't  
24     do it.   We are supposed to use the plain and ordinary  
25     meaning of these terms.

1           Q.     Now, throughout the opening and surrebuttal  
2     reports here, you cite some dictionary definitions in  
3     your reports, but you never say which definition is the  
4     plain and ordinary meaning of the terms as used in the  
5     patent, do you?

6           MR. LONG:   Objection.   Form.  
7     Mischaracterizes his testimony.

8           A.     Yeah, I don't believe I said anything of  
9     that.   I cited those dictionary definitions not as the  
10    foundation for what the plain and ordinary meaning was.  
11    That was not the purpose.

12                  The purpose of me citing those definitions  
13    was to rebut Dr. Feland's constructions.   So, my -- my  
14    references to definitions was strictly for the purposes  
15    of rebutting what Dr. Feland had proposed in his  
16    constructions.

17           Q.     Okay.   So, your opening report and your  
18    surrebuttal report do not actually state what a POCITA  
19    considered the plain and ordinary meaning to be of any  
20    of the disputed claim terms, right?

21           MR. LONG:   Objection.   Form.   Asked and  
22    answered.

23           A.     I think I have said it already.   My opinion  
24    is, a POCITA uses the plain and ordinary meaning of  
25    these terms, period.   There was no definition provided

1 because there wasn't one required.

2 Q. All right. Let's look at the Group A  
3 terms, okay? So, Group A terms are: "secured", "to  
4 couple", and "couple to", right?

5 A. You are referring to -- where are you  
6 referring to? Page 14?

7 Q. Yeah.

8 A. Okay.

9 Q. And I think we are using the phrase, Group  
10 A terms just as a shorthand for those three claim  
11 terms; is that fair?

12 A. Yeah, absolutely.

13 Q. Okay.

14 A. I took hesitation because at some point it  
15 goes from "secured" to "secured to". So, I just want  
16 to make sure I was reading from the same place you  
17 were.

18 Q. Right. Well -- so, I guess we will get to  
19 that. But I am just using your declaration here, which  
20 is Exhibit 1. And as Group A, it says: "secured", "to  
21 couple", and "coupled to", right?

22 A. You read that correctly.

23 Q. Okay. So, here in Paragraph 46, you said  
24 what you understood Winston Products' proposed claim  
25 constructions to be for those three claim terms, right?



1           A.       Yeah.

2           Q.       And then, in particular, you said that for  
3 "secured", Winston's proposed claim construction was,  
4 "permanently attached," right?

5           A.       That is what it says there, yes.

6           Q.       And as of December 29th, which was, I  
7 think, the date of your --

8           A.       That is correct.

9           Q.       -- report, Winston had already changed its  
10 construction by that time, correct?

11          A.       I don't know if I knew that or not. I was  
12 basing it on the tables that I had read prior to the  
13 29th. I don't know -- I will be candid with you, I  
14 don't know if I knew that, that Winston had changed its  
15 construction. Certainly, they had by the time I wrote  
16 my surrebuttal.

17          Q.       Yeah.

18          A.       I was aware of it then. I can't say that I  
19 knew that when I wrote this report.

20          Q.       And that may be fair, you might not have  
21 known it, but by that point in time, in fact, Winston  
22 had offered new claim constructions to Telebrands'  
23 counsel. Are you aware of that now?

24                   MR. LONG: Objection. Form.

25          A.       As I said, I may not have been aware of

1           A.     I haven't made that assessment. I can look  
2     at that. Can you hand me the patent and I will make  
3     that assessment, please?

4           Q.     So, let's start with the '870.

5           A.     (Indicating). This is not the complete  
6     '870 Patent.

7           MR. LONG: Need to take a break?

8           MR. CLIFFORD: Yeah.

9           THE VIDEOGRAPHER: Off the record at 11:16.

10                   -    -    -    -    -  
                      (Off the record.)

11                   -    -    -    -    -

12           THE VIDEOGRAPHER: On the record at 11:17.

13     BY MR. CLIFFORD:

14           Q.     So, let's go back to, couple and secured.  
15     Do you agree that the meanings of, couple and secured  
16     overlap?

17           MR. LONG: Objection. Form.

18           A.     They might. I can also see where they  
19     don't. I can see examples. From an engineering  
20     perspective, again, they don't have the same meaning.

21                   Do the meanings potentially overlap? They  
22     might. I hadn't really considered that. There was no  
23     reason for me to make that kind of comparison. The  
24     patents, as I read them, don't require a reader to make  
25     that comparison.

1           Q.     So, take a look at Exhibit 3, please. This  
2 is Dr. Feland's report.

3           A.     (Indicating).

4           Q.     So, please turn to Page 24, Paragraph 61.

5           A.     I'm there.

6           Q.     Okay. So, in Paragraph 61, Dr. Feland says  
7 that, "Because of the overlapping nature of the terms,  
8 like 'secured' and 'coupled', if the Court were not to  
9 construe them, as Dr. Glancey -- as suggested by  
10 Dr. Glancey, this would lead to an inherent ambiguity  
11 regarding their meaning and scope in the  
12 Patents-in-Suit, even to a POCITA at the time of  
13 invention".

14                   Now, you did not address in your report,  
15 even though Dr. Glancey mentions the overlapping nature  
16 of those words, what the difference is between secured  
17 and coupled, correct?

18                   MR. LONG: Objection. Form. You mean  
19 Dr. Feland?

20           A.     Yeah, you named me. You should have said  
21 him.

22           Q.     Strike that.

23                   Even though Dr. Feland said in Paragraph 61  
24 of his report that there was an overlapping nature  
25 between the terms, secured and coupled, you did not

1 address that in your report and explain the difference  
2 between them, did you?

3 MR. LONG: Objection. Form.

4 A. I did not compare the term because there is  
5 no reason to compare the terms when reading the claims.  
6 There is no option given to the reader of the claims  
7 that, choose -- choose either secure or coupled to  
8 connect things. There is no -- there is no phrasing  
9 like that that would require a reader to make that  
10 comparison between the two. The patent claims are very  
11 clear.

12 They choose secure in some instances, they  
13 choose coupled in some other instances, or "to couple",  
14 "couple to". There is no impetus for me to make that  
15 comparison because the claims don't require any such  
16 comparison.

17 Q. So, your opinion is that, couple, as it is  
18 used in the patents, is unambiguous?

19 MR. LONG: Objection. Form.

20 A. The patents are unambiguous. The claims  
21 are unambiguous, I should say.

22 Q. So, you also then opine that the word,  
23 secured, as used in the patents, is unambiguous?

24 MR. LONG: Objection. Form.

25 A. Yes.

1           Q.       Okay. And your surrebuttal, despite the  
2       opinions of Dr. Feland in Paragraph 61, and the  
3       paragraphs that follow, do not explain why both the  
4       words, couple and secured, as they appear in the  
5       patents, does not create ambiguity, do you?

6                   MR. LONG: Objection. Form.

7           A.       Can you rephrase that? I got kind of lost.  
8       I was thinking while I was listening.

9           Q.       Your reports do not specifically explain,  
10       despite what Dr. Feland said in Paragraph 61, and the  
11       paragraphs that follow, why the words, couple and  
12       secured, as used in the patents, do not create  
13       ambiguity?

14                  MR. LONG: Objection. Form.

15          A.       I read Dr. Feland's opinion. I went back  
16       and re-read the claims. There is no motivation,  
17       reason, or need to compare those two terms when you  
18       read the claims. There is no reason to compare those  
19       terms.

20                  And just because terms may or may not be  
21       overlapping, or have some overlapping meanings, is not  
22       reason to still take them at their plain and ordinary  
23       meaning. Those -- those terms were used exclusively at  
24       different places, and there is no confusion about  
25       should I use the word, secure, or should I use the

1 well, I think, now I want to point to you.

2 So, it does use the word, secure, or  
3 secured, in the context of connecting the hose to a  
4 water source. So, the patent does do that. You were  
5 asking, well, I had that hypothetical, and one could  
6 secure. You would imagine that.

7 In the patent -- I went back and read it at  
8 lunchtime -- and I forgot to mention that on Page 24 of  
9 my surrebuttal, there is a couple examples quoted from  
10 the specification where the patent does attempt to  
11 clarify some of these things.

12 So, Page 24, middle of the page, "For  
13 example, when the hose 10 of the present invention is  
14 utilized as a garden hose around a house, coupler 18 is  
15 secured to a faucet or water outlet". So, the  
16 specification takes it a step further and starts to  
17 instruct and inform what the inventors had in mind in  
18 terms of how to properly interpret and use their --  
19 their word choice of, secured.

20 They are giving you a clear example right  
21 here. And they do another one. There's another  
22 example further down on that same page.

23 Q. All right. So, doesn't that exacerbate the  
24 ambiguity, because now they are using the same words  
25 interchangeably for the exact same connection?

1 MR. LONG: Objection. Form.

2 A. No. No, I don't think there is any  
3 ambiguity whatsoever. It is very clear what they say  
4 here.

5 Q. So, you can secure or you can couple the  
6 threaded connection where you are screwing a coupler to  
7 the faucet on the side of a house?

8 MR. LONG: Objection. Form.

9 A. That's the example that I just pointed to  
10 here, yeah.

11 Q. Right. So, how is anybody looking at this  
12 patent supposed to figure out the difference between a  
13 connection that is exactly the same? So, you,  
14 yourself, said this connection right here on Page 19,  
15 which is a faucet with a threaded connection -- now  
16 that's a standard hose, but it uses the same type of  
17 threaded connection as the hoses at issue here, okay.  
18 There is one way to do that threaded connection, right?

19 MR. LONG: Objection. Form.

20 Q. This specific faucet, there is only one way  
21 to attach to that, right?

22 MR. LONG: Objection.

23 Q. You thread to that faucet with a threaded  
24 coupler, correct?

25 MR. LONG: Objection. Form.

1           A.       There is one way to make -- to connect the  
2 hose?

3           Q.       Yeah.

4           A.       You engage the threads and you rotate them  
5 until they are firm.

6           Q.       Right. So, your example, and the patent  
7 calls for, in Claim 1 of the '870 Patent, for that  
8 connection to be coupled, right?

9           A.       Uh-huh.

10           MR. LONG: Objection.

11           Q.       And now you are saying, well,  
12 alternatively, there is some language in the spec that  
13 says you could also secure it?

14           A.       Uh-huh.

15           Q.       All right. But, so, that connection right  
16 there on Page 19 of your surrebuttal report can mean  
17 either couple or secured?

18           MR. LONG: Objection. Form.  
19 Mischaracterizes his testimony.

20           A.       That's not what I said. The claims are  
21 very clear. The claims say secure and couple at  
22 different places.

23                    There is no -- there is no option given to  
24 a reader of the patent that says you can secure it or  
25 couple it. The claims are crystal clear in terms of



1 where they use those words at the required times. And  
2 if you look at the claims, there is no, you can secure  
3 it or you can couple it.

4 I said this before, there is no ambiguity  
5 there. When you need to secure something, it says  
6 secure. And it says, in other places, you can couple.

7 Q. All right. So, tell me, on Page 19, is  
8 that hose coupled or secured to that faucet?

9 MR. LONG: Objection. Form.

10 A. It is coupled.

11 Q. And how do you know that?

12 MR. LONG: Objection. Form.

13 A. It is using a threaded connection to make  
14 that attachment of the hose to that spigot.

15 Q. Are you sure that that is not a hose of the  
16 present invention utilized as a garden hose around a  
17 house where the coupler is secured to a faucet or water  
18 outlet on an exterior of the wall of the house? That's  
19 not the exact same thing as what we see in the photo on  
20 Page 19.

21 MR. LONG: Objection. Form.

22 A. (Indicating). Yes, as the patent states,  
23 the coupler 18 is secured to the faucet or water  
24 outlet. So, it is a coupling that is secured, as is  
25 stated in Column 10 of the patent.

1 Q. So, it is both coupled and secured?

2 A. No, that's not what I said.

3 MR. LONG: Objection. Form.

4 A. It is a coupler that is secured. It is not  
5 coupled to. It is a coupler is secured.

6 Q. You said -- okay. We'll leave it there.

7 MR. CLIFFORD: Let's take a break.

8 THE VIDEOGRAPHER: Going off the record at  
9 1:40.

10 - - - - -  
(Off the record.)

11 - - - - -

12 THE VIDEOGRAPHER: On the record. This is  
13 the beginning of Media Unit Number 5. The time is  
14 2:02.

15 BY MR. CLIFFORD:

16 Q. All right. Dr. Glancey, I want to move on  
17 to Group B terms now. If you could, open your original  
18 report, please, to -- we will start on Page 15 just to  
19 identify which terms we are talking about.

20 A. Okay (indicating).

21 Q. So, this is the set of three phrases. I  
22 read them before, but I will get them in the record  
23 again, that we are calling Group B terms.

24 First is, "Said inner and outer tubes,  
25 unsecured between said first and second ends so that

1 said outer tube is not held in frictional contact with  
2 said inner tube so that said outer tube can move freely  
3 along said inner tube".

4 And the second one says, "Said inner tube  
5 is unsecured to said outer tube between said first and  
6 second ends so that said outer tube can move freely  
7 over said inner tube".

8 And and third one is, "Said flexible inner  
9 tube unsecured to said flexible outer tube between said  
10 first and second ends so that said flexible outer tube  
11 can move freely over said flexible inner tube ".

12 Did I read those Group B terms correctly?

13 A. Yes.

14 Q. Great. All right. So, let's look, for a  
15 second, over to your Paragraph 52 in the opening  
16 report.

17 A. I'm there.

18 Q. All right. And, actually, before we get to  
19 52, I just want to confirm. So, with respect to your  
20 opinions on Group B terms, you believe that a person of  
21 ordinary skill would apply a plain meaning to these,  
22 and that they do not need to be construed by the Court;  
23 is that fair?

24 A. Correct.

25 Q. Okay. And you go on at the beginning of

1 'coupled to'." Yes, it specifically addresses the  
2 overlapping issue.

3 Q. And what is your reasoning addressing  
4 the -- in contrast to Dr. Feland's opinion?

5 A. Well, I think if you just take these terms  
6 and use their plain and ordinary meaning, there would  
7 be no confusion.

8 MR. LONG: No further questions.

9 MR. CLIFFORD: No questions.

10 THE VIDEOGRAPHER: This concludes today's  
11 testimony and we'll go off the record at 3:32.

12 (Off the video record).

13 MR. LONG: Read and sign.

14  
15 (The Videotaped Deposition was concluded at 3:32 p.m.)  
16  
17  
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24  
25

1           Whereupon, Counsel was requested to give  
2     instruction regarding the witness's review of the  
3     transcript pursuant to the Civil Rules.

4  
5                               SIGNATURE:

6  
7           Transcript review was requested pursuant to the  
8     applicable Rules of Civil Procedure.

9  
10                           TRANSCRIPT DELIVERY:  
11     Counsel was requested to give instruction regarding  
12     delivery date of transcript.

13           Original transcript?

          Mr. Clifford: Yes, expedited delivery.

14  
15           Certified transcript?

          Mr. Long: Yes, three day expedited delivery.

REPORTER'S CERTIFICATE

The State of Ohio, )

SS:

County of Cuyahoga. )

I, KELLIANN D. LINBERG, RPR, a Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named witness, JAMES GLANCEY, Ph.D., P.E., was by me duly sworn to testify the whole truth, in the cause aforesaid; that the testimony was taken down by me in stenotypy in the presence of said witness; afterwards transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified.

I further certify that I am not a relative, employee, or attorney of any of the parties hereto, or of any attorney or counsel employed by the parties, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 8th day of April, 2024.



Kelliann D. Linberg, RPR

Notary Public within and for the State of Ohio

My commission expires: May 25, 2024.